

### REMARKS

Reconsideration of the application in view of the above amendments and following remarks is respectfully requested. Claims 1, 4-13, 16, 17, 19-22, 30 and 33 are now pending. Claims 1, 4-13, 16, 17, 19-22, 30 and 33 have been amended. Claims 2, 3, 14, 15, 18, 23-29, 31 and 32 have been cancelled.

#### ***Status of Application***

By Office Action mailed August 15, 2006, a number of the pending claims stood allowed. Accordingly, and by Amendment mailed November 10, 2006, Applicants amended the claims in a manner consistent with the Examiner's indication of allowable subject matter. By Office Action mailed February 12, 2007, entirely new grounds of rejection have been raised. The present Amendment is directed to these new grounds of rejection. To this end, Applicants will first address the Examiner rejections based on the prior art, and then turn to the rejections directed to sufficiency of the disclosure.

#### ***Rejections Based on Prior Art***

Claims 27 and 31-33 stand free of the prior art. While claims 1, 2, 4-13, 15-17, 19-26 and 30 stand rejected under 35 U.S.C. §102(e) as anticipated by each of (1) U.S. Patent No. 6,395,724 to Judice et al., (2) U.S. Patent No. 6,420,354 to Marquess et al., and (3) U.S. Patent No. 6,420,354 to Numerof et al., such prior art rejections have not been applied to claims 27 and 31-33.

Although Applicants do not agree with the prior art rejections, Applicants wish to expedite consideration and allowance of the embodiments recited by claims 32 and 33; namely, (a) claims directed to an agent (claim 32) for detecting rhinoviral infection in humans comprising a compound capable of binding to human rhinovirus, said compound being linked to a detectable linker, and (b) a method for diagnosis (claim 33) of human rhinoviral infection by, *inter alia*, administration of an agent of claim 32.

To this end, Applicants have amended claim 1 to recite the subject matter of claim 32. More specifically, claim 1 has been amended to recite an agent (as opposed to a compound)

comprising a compound capable of binding to a human rhinovirus capsid, wherein the compound is linked to a detectable label. The various claims that depend from claim 1 have been amended in a consistent manner (*i.e.*, to recite as agent claims, as opposed to compound claims), and claim 32 has been canceled.

As for method claim 33, this claim recites a method for the diagnosis of human rhinoviral infections in humans comprising, *inter alia*, incubating a sample with an agent of claim 1 (as opposed to the agent of claim 32, the subject matter of which is now recited in claim 1). Furthermore, Applicants have made method claim 33 a multiple dependent claim, depending not only from claim 1, but also from various claims that depend from claim 1.

Since the prior art of record does not teach or suggest the subject matter of claim 32, it also does not teach or suggest the subject matter of claim 1 (which claim has been amended to recite the subject matter of claim 32). Since all the claims that depend directly or indirectly from claim 1 contain all the limitations thereof, such dependent claims are patentable over the prior art of record for the same reasons.

Similarly, since claim 33 stands free of the prior art, claim 33 as amended herein to recite as a multiple dependent claim also stands free of the prior art for the same reasons.

Accordingly, Applicants submit that all pending claims now stand free of the prior art of record and request that the Examiners rejection in this regard be withdrawn.

### ***Rejections Based on Sufficiency of Disclosure***

As noted above, the currently pending claims correspond to the subject matter previously recited in claims 32 and 33 (both of which claims stand free of the prior art of record). However, claims 32 and 33 stand rejected under 35 U.S.C. §112, first paragraph for lack of written description and enablement. Under both rejections, the basis of the Examiner rejection is the assertion that the specification only supports a more limited scope of compounds falling with the recited genus.

Again, while not agreeing to these grounds of rejection, Applicants have amended claim 1 to more specifically recite the nature of the capsid binding moieties. More specifically, the definition of Ar<sup>1</sup> and Ar<sup>2</sup> has been amended to recite in a manner that is more specific than

just “aryl groups”. Also, the definition of W has been amended to recite in a manner that is more specific than just “a divalent spacer group”. Such amendments are fully supported by the specification as originally filed, and do not constitute addition of new matter.

By way of the above amendments, Applicants submit that the pending claims satisfy both the written description and enablement requirements of §112. More specifically, the specification as originally filed, including the species exemplified, sufficiently support the current claim scope, both with regard to the inventors having possession of the claimed invention at the time of filing, and to teaching one skilled in this field how to practice the same without undue experimentation.

Accordingly, Applicants request that these grounds of rejection be withdrawn as applied to the pending claims.

### ***Conclusion***

In view of the above amendments and remarks, Applicants request that all pending claims be passed to allowance. A good faith effort has been made to place this application in condition for allowance. However, should any further issue require attention prior to allowance, the Examiner is requested to contact the undersigned at (206) 622-4900 to resolve the same.

Respectfully submitted,  
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